

information relied upon in making our final determination.

#### *All Others Rate*

Recognizing the impracticality of examining all producers and exporters in all cases, section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. *See* SAA at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of Indian HRS, an "all others" margin that is the weighted average of the margins calculated for Ispat and Essar.

#### *Suspension of Liquidation*

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service (Customs Service) to suspend liquidation of all entries of HRS from India that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which NV exceeds EP, as indicated in the chart below. We will adjust the deposit requirements to account for any export subsidies found in the companion countervailing duty investigation. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Ispat Industries Ltd .....	39.36
Essar Steel Ltd .....	34.55
All Others .....	34.75

#### *Disclosure*

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

#### *International Trade Commission Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is

affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

#### *Public Comment*

Case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one HRS case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of Assistant Secretary for Import Administration.

Dated: April 23, 2001.

**Bernard T. Carreau,**

*Deputy Assistant Secretary, Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-560-812]

### Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** May 3, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mark Manning or Nova Daly at (202) 482-3936 and (202) 482-0989, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

### Preliminary Determination

We preliminarily determine that certain hot-rolled carbon steel flat products (HRS) from Indonesia are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

### Case History

This investigation was initiated on December 4, 2000. *See Notice of Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products From Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine*, 65 FR 77568 (December 12,

2000) (*Initiation Notice*).<sup>1</sup> Since the initiation of these investigations, the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. See *Initiation Notice* at 77569. We received no comments from any parties in this investigation. The Department did, however, receive comments regarding product coverage in the investigation of HRS from the Netherlands. In that investigation we received comments from Duracell Global Business Management Group on December 11, 2000; from Energizer Battery Co., Inc. on December 15, 2000; from Bouffard Metal Goods, Inc., and Truelove & Maclean, Inc., on December 18, 2000; from Corus Staal BV and Corus Steel U.S.A., Inc., (collectively referred to as "Corus") and Thomas Steel Strip Corporation on December 26, 2000; and from Rayovac Corporation on March 12, 2001.

On December 22, 2000, the Department issued a letter to interested parties in all of the concurrent HRS antidumping investigations, providing an opportunity to comment on the Department's proposed model matching characteristics and hierarchy. Comments were submitted by: petitioners (January 5, 2001); Corus, respondent in the Netherlands investigation (January 3, 2001); Iscor Limited, respondent in the South Africa investigation (January 3, 2001); and Zaporizhstal, respondent in the Ukraine investigation (January 3, 2001). Petitioners agreed with the Department's proposed characteristics and hierarchy of characteristics. Corus suggested adding a product characteristic to distinguish prime merchandise from non-prime merchandise. Neither Iscor nor Zaporizhstal proposed any changes to either the list of product characteristics proposed by the Department or the hierarchy of those product characteristics but, rather, provided information relating to its own products that was not relevant in the context of determining what information to include in the Department's questionnaires. For purposes of the questionnaires subsequently issued by the Department to the respondents, no changes were made to the product

characteristics or the hierarchy of those characteristics from those originally proposed by the Department in its December 22, 2000 letter. With respect to Corus' request, the additional product characteristic suggested by Corus, to distinguish prime merchandise from non-prime merchandise, is unnecessary. The Department already asks respondents to distinguish prime from non-prime merchandise in field number 2.2 "Prime vs. Secondary Merchandise." See the Department's Antidumping Duty Questionnaire, at B-7 and C-7 (January 4, 2001). These fields are used in the model match program to prevent matches of prime merchandise to non-prime merchandise.

On January 4, 2001, the Department issued an antidumping questionnaire to Krakatau, the mandatory respondent in Indonesia.<sup>2</sup> See January 3, 2001 respondent selection memo. On January 15, 2001, we received a faxed letter from Krakatau requesting an extension of time to respond to section A of the Department's questionnaire. On January 18, 2001, we received Krakatau's official, mailed section A extension request. On January 23, 2001, the Department granted Krakatau an extension of time to respond to section A of the questionnaire and notified Krakatau that submitting documents to the record of this proceeding via fax is not an acceptable method of submission and that such documents would not be accepted on an official basis. In the January 23, 2001 letter to Krakatau, we provided detailed information concerning the appropriate manner of submitting information or requests to the record, including a discussion of the regulations guiding the official submission of information.

On February 5, 2001, we received Krakatau's response to section A of the Department's questionnaire. Also on February 5, 2001, the Department received a faxed letter from Krakatau requesting an extension of time to respond to sections B, C, and D of the questionnaire. On February 8, 2001, the Department sent a letter to Krakatau granting its request for an extension of

the deadline. In the letter, we again instructed Krakatau to follow the proper procedures for submitting requests to the record.

On February 23, 2001, the Department received a letter from Krakatau requesting a further extension of time to respond to sections B, C, and D of the questionnaire. The Department subsequently sent a letter, dated February 23, 2001, denying Krakatau's request for a further extension due to the limited time available in this investigation and the impending preliminary determination. On February 28, 2001, fifty-five days after issuing the antidumping questionnaire, the Department received Krakatau's response to sections B, C, and D of the questionnaire and non-functional sales databases.

On March 1, 2001, the Department sent Krakatau a request for supplemental information regarding section A of the Department's questionnaire. On March 2, 2001, the Department received a letter from the petitioners notifying the Department that Krakatau had failed to serve them a computer diskette containing the sales and cost databases, which was due February 28, 2001. On March 5, 2001, the Department sent a letter to Krakatau notifying it that the sales databases it submitted to the Department on February 28, 2001 were not functional and provided instructions on the proper format for submitting computer data. In addition, this letter instructed Krakatau to send copies of the revised home and U.S. market sales databases to the petitioners. Sixty-four days after issuing the questionnaire, the Department received, on March 9, 2001, the revised sales databases, in addition to the cost reconciliation package and an unsolicited addendum to the February 28, 2001 section D response. However, Krakatau submitted only three copies of the proprietary version of its response, rather than the six copies required by the Department's regulations. In addition, Krakatau failed to submit a public version of these documents.

On March 12, 2001, the Department received Krakatau's response to the Department's supplemental section A questionnaire. On March 14, 2001, the Department sent Krakatau a supplemental questionnaire regarding section D of the Department's questionnaire. On March 15, 2001, the Department sent a letter to Krakatau stating that its March 9, 2001 submission did not contain the correct number of proprietary and public copies. In that letter, we again provided Krakatau with the same detailed information concerning the correct

<sup>1</sup> The petitioners in these investigations are Bethlehem Steel Corporation, Gallatin Steel Company, IPSCO Steel Inc., LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., U.S. Steel Group (a unit of USX Corporation), Weirton Steel Corporation, the Independent Steelworkers Union, and the United Steelworkers of America (collectively the petitioners). Weirton Steel Corporation is not a petitioner in the investigation involving hot-rolled steel from the Netherlands.

<sup>2</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

procedures for submitting information as was originally provided on January 23, 2001. On March 16, 2001, the Department sent Krakatau a request for supplemental information covering sections B and C of the questionnaire. The Department issued a second supplemental section D questionnaire on March 23, 2001. Shortly thereafter, on March 30, 2001, the Department received Krakatau's supplemental response to section D of the questionnaire. On April 2, 2001, the Department received Krakatau's supplemental response to sections B and C of the Department's questionnaire. However, the software program Krakatau used to compress the size of its supplemental data and the inconsistent use of different date formats in the home market invoice date field, caused the Department a significant delay in accessing the supplemental data for our analysis. In addition, one of the petitioners notified the Department that Krakatau failed to serve it with a diskette containing the supplemental sales databases, which was due April 2, 2001. Since the date of the Department's preliminary determination was approximately three weeks away, we provided this petitioner with a copy of the supplemental data we received from Krakatau. *See* Memorandum to the File, dated April 2, 2001. On April 16, 2001, the Department issued Krakatau a second supplemental questionnaire covering sections B and C, with a due date of April 26, 2001. Since this due date is after the preliminary determination (*i.e.*, April 23, 2001), the information received in this response will be taken into account for the final determination.

#### *Period of Investigation*

The POI for this investigation is October 1, 1999 through September 30, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, November 2000).

#### **Scope of Investigation**

For purposes of this investigation, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on

four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 2.25 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.

- Ball bearing steels, as defined in the HTSUS.

- Tool steels, as defined in the HTSUS.

- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.

- ASTM specifications A710 and A736.

- USS abrasion-resistant steels (USS AR 400, USS AR 500).

- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).

- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to these investigations is classified in the HTSUS under the following tariff classification numbers: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this investigation, including vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff classification numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS tariff classification numbers are provided for convenience and U.S. Customs Service (Customs) purposes, the written description of the merchandise under investigation is dispositive.

### Facts Available

#### 1. Application of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference, if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (October 16, 1997). Finally, section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition. *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994).

For the reasons discussed below, the Department determines that, in accordance with sections 776(a)(2)(B) and 776(b) of the Act, the use of adverse facts available is appropriate for the preliminary determination for Krakatau. The evidence on the record establishes that the use of total facts available for Krakatau is warranted because Krakatau failed to provide complete sales and cost questionnaire responses within the meaning of section 776(a)(2)(B) of the Act. In its initial and supplemental responses, Krakatau failed to provide the information in the manner requested in the Department's January 4, 2001 antidumping questionnaire, the March 16, 2001 sections B and C supplemental questionnaire, and the March 14 and 23,

2001 supplemental section D questionnaires.

We also note that at no time did Krakatau notify the Department, pursuant to section 782(c)(1) of the Act, that it was unable to submit the information requested in the requested form and manner, nor did it suggest alternative forms in which it would be able to submit the requested information. Throughout the course of this antidumping investigation, the Department gave Krakatau, a pro se company, assistance and opportunities to comply with the Department's requests for information. Specifically, taking into consideration the fact that the respondent is a pro se company, the Department provided Krakatau detailed information and guidance on how to properly calculate and report sales and cost data and adjustments, granted Krakatau extensions to reply to requests for information, and provided an opportunity to explain and correct the deficiencies in its responses. However, at no point in the investigation did Krakatau notify the Department that it had any difficulties in submitting the information in the form and manner requested, seek guidance on alternative reporting requirements, or propose an alternate form for submitting the required data, as contemplated in section 782(c)(1) of the Act. Despite the efforts at assistance on the part of the Department, Krakatau failed to provide information reliable enough that it can serve as a basis for reaching the applicable determination.

Pursuant to section 782(e)(3) of the Act, the sales information Krakatau provided in its initial and supplemental responses was deficient such that the Department cannot consider it as a reliable basis for reaching the applicable determination. Our analysis of Krakatau's sales response found deficiencies that prohibit us from conducting an accurate model match, which prevents us from ensuring that products sold in the U.S. market are accurately matched to identical or most similar products sold in the home market. Without properly matching products sold in the U.S. and home markets, we cannot accurately identify similar matches and, as appropriate, calculate an accurate difference in merchandise (DIFMER) adjustment to account for the differences in the products being matched. In addition, we found that Krakatau's deficiencies in reporting multiple home and U.S. market sales adjustments prevent us from calculating fully adjusted home and U.S. market prices. Without fully adjusted home and U.S. market prices,

we are unable to calculate an accurate dumping margin.

Since these functions are essential elements to a dumping analysis, we find that Krakatau's responses cannot serve as a reliable basis for this preliminary determination. Specifically, Krakatau failed to provide: (1) Accurate quality classifications for sales in the home and U.S. market; (2) minimum specified yield strength classifications for sales in the home and U.S. market; (3) a method for identifying sales of non-foreign like product in its home market sales database; and (4) an explanation and appropriate supporting documents for how it calculated brokerage and handling, short-term interests rates (which are used in the calculation of imputed credit expenses), advertising, technical service, indirect selling expenses, inventory carrying costs, and packing. *See* March 16, 2001 sales supplemental questionnaire and April 2, 2001 sales supplemental response. *See also* Memorandum from Holly A. Kuga to Bernard T. Carreau, *Certain Hot-Rolled Carbon Steel Flat Products from Indonesia: Preliminary Determination of Sales at Less Than Fair Value: The Use of Facts Available for PT Krakatau Steel and Corroboration of Secondary Information*, dated April 23, 2001 (*Krakatau Facts Available Memorandum*).

Regarding Krakatau's cost response, our analysis found deficiencies in the initial and supplemental responses that prohibit us from accurately determining Krakatau's COP for each of the control numbers (CONNUMs) reported in its home and U.S. sales databases. The primary problem is that Krakatau calculated a company-wide average cost, and then to obtain individual product costs, applied this average cost to the cumulative yield for each individual production process each product (by CONNUM) passed through, rather than calculating product-specific costs. Without product-specific costs, the Department is unable to accurately determine whether home markets sales were sold at prices above, or below, the COP. Without a proper cost test, the Department is unable to calculate the proper NV in price-to-price comparisons.<sup>3</sup> In addition, the absence of product-specific costs prevents us from calculating a valid DIFMER (assuming that the correct sales were selected for comparison). Lastly, we note that Krakatau failed to provide a COP for certain of its reported home

<sup>3</sup> Without a proper cost test, it is impossible to determine whether 20 percent or more of the home market sales are below cost and hence, would be excluded from the calculation of NV.

market CONNUMs and failed to provide a CV for certain of its reported U.S. market CONNUMs. For home market sales without a COP, we cannot perform the cost test to determine whether these sales were sold above their COP. For U.S. sales without a reported CV, we have no means of determining NV if there are no home market sales matches.

Because of Krakatau's failure to provide product-specific costs that account for the physical characteristics of unique products, we find that Krakatau's cost responses cannot serve as a reliable basis for this preliminary determination. Specifically, Krakatau failed to provide: (1) Costs that account for differences in quality, carbon, strength, thickness, width, pickling, edge trim, and pattern; (2) costs that account for differences in the chemistry or alloy content of specific grades of steel; (3) costs that account for differences in individual production processes; (4) the financial statements of its affiliates or of its parent corporation; (5) an explanation or supporting documents for the adjustments it made to the calculation of the scrap credit and direct material cost for "Sponge Iron Consumption;" (6) an explanation of why it did not incorporate the daily time utilization reports in its cost methodology; (7) a COP for multiple CONNUMs contained in the home market sales database; and (8) a CV for multiple CONNUMs contained in the U.S. market sales database. As a result, the information on the record is insufficient for purposes of calculating a dumping margin. *See* March 14 and March 23, 2001 cost supplemental questionnaires. *See also Krakatau Facts Available Memorandum.*

Of the many deficiencies in Krakatau's cost response, the most problematic deficiency is that Krakatau calculated one company-wide average cost and then, to obtain individual product costs, applied this average cost to the cumulative yield for the individual path each product (by CONNUM) passed through. The cumulative yield of subsequent cost centers through which a product passes will account for the losses that occur at those cost centers. However, this methodology does not account for processing differences within each cost center. For example, within the hot rolling mill, products with different thicknesses are not differentiated in terms of cost based on their rolling times. In another example, the costs associated with the pickling process are not assigned to products based on whether or not the product was pickled, but rather only by applying the yield loss associated with the pickling cost

center to the average cost of hot rolling. As discussed above, the failure to provide product-specific costs makes it impossible to (1) conduct the sales below cost test, (2) calculate the 20% comparability test used in the DIFMER adjustment, and (3) calculate CV.

Moreover, we find that the cumulative effect of these errors is to erode our confidence in Krakatau's response as a whole. Therefore, pursuant to section 782(e)(3) of the Act, the Department finds that the information on the record, as discussed above, is so incomplete that it cannot serve as a reliable basis for reaching the applicable determination.

We also find that the application of an adverse inference in this case is appropriate. Krakatau failed to act to the best of its ability to comply with the Department's requests for information when it failed to provide: (1) Accurate quality and yield strength characteristics (which prevents the Department from conducting an accurate model match), (2) a method for identifying sales of non-foreign like product in its home market sales database, (3) an explanation and appropriate supporting documents for how it calculated certain sales expense adjustments, and (4) product-specific costs. Despite the Department's directions in the original and supplemental questionnaires, and the extensions granted, Krakatau made no effort to provide any explanation or propose an alternate form of submitting the data. *See Krakatau Facts Available Memorandum.*

Furthermore, the information cannot be obtained elsewhere. Without this critical information, the Department cannot accurately determine the dumping margin for Krakatau. In addition, as outlined in the *Case History* section above, the company's failure to properly submit information and data to the record of this proceeding delayed the Department in making critical decisions involving the calculation of Krakatau's dumping margin. The company was put on notice by Department's extension letters and other correspondence that failure to properly submit information and data to the Department constituted a deficiency which could result in the use of facts available. *See* the Department's letters to Krakatau dated January 23, February 8, March 5, and March 15, 2001.

Krakatau's submission of information is so incomplete that it cannot serve as a reliable basis for reaching the applicable determination. Its failure to comply with the Department's procedures for submitting information and data to the record of this proceeding, and its repeated failure to

provide information to the Department which could not be obtained elsewhere, demonstrate a consistent pattern of unresponsiveness and a failure to cooperate to the best of its ability with the Department's requests for information. Despite the Department's directions in the questionnaires and the letters granting extensions, Krakatau did not provide the information requested by the Department, made no effort to explain any difficulties it was having in supplying the information, and did not propose an alternate form of submitting the information. For these reasons, we find that Krakatau did not act to the best of its ability in responding to the Department's requests for information, *see, e.g., Circular Stainless Steel Hollow Products*, and that, consequently, an adverse inference is warranted under section 776(b) of the Act. *See Krakatau Facts Available Memorandum.*

Pursuant to section 776(b) of the Act, the Department is basing Krakatau's margin on adverse facts available for purposes of the preliminary determination. Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. As adverse facts available, we are applying the margin for Indonesia published in the Department's notice of initiation, which is 59.25 percent. *See Notice of Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products From Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine*, 65 FR 77568 (December 12, 2000)) (*HRS Initiation Notice*).

## 2. Selection and Corroboration of Facts Available

Section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition. *See also* SAA at 829–831. Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870). The SAA also states that independent sources used to corroborate

such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see* SAA at 870).

In order to determine the probative value of the margin in the petition for use as adverse facts available for purposes of this determination, we examined evidence supporting the calculations in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margin in the petition was based. Our review of the EP and NV calculations indicated that the information in the petition has probative value, as certain information included in the margin calculations in the petition is from public sources concurrent with the relevant POI. For purposes of the preliminary determination, we attempted to further corroborate the information in the petition. We re-examined the EP and NV data which formed the basis for the margin in the petition in light of information obtained during the investigation and, to the extent practicable, found that it has probative value.

Accordingly, in selecting adverse facts available with respect to Krakatau, the Department determined to apply a margin rate of 59.25 percent, the margin published in the Department's notice of initiation.

#### *All Others Rate*

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated "all others" rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than facts available margins to establish the "all others" rate. Where the data do not permit weight-averaging such rates, the SAA, at 873, provides that we may use other reasonable methods. Because the petition contained only an estimated price-to-CV dumping margin, which the Department adjusted for purposes of initiation, there are no additional estimated margins available with which to create the "all others" rate. Therefore, we applied the published margin of 59.25 percent as the "all others" rate.

#### *Suspension of Liquidation*

In accordance with section 733(d) of the Act, we are directing Customs to suspend liquidation of all entries of HRS from Indonesia that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct Customs to require a cash deposit or the posting of a bond equal to the amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
PT Krakatau Steel .....	59.25
All Others .....	59.25

#### *Disclosure*

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

#### *ITC Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

#### *Public Comment*

Case briefs must be submitted no later than 35 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made

in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one HRS case, the Department may schedule a single hearing to encompass all cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination in this investigation no later than 75 days after the date of this preliminary determination.

This determination is published pursuant to sections 733(f) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 23, 2001.

**Bernard T. Carreau,**  
Deputy Assistant Secretary for Import Administration.

[FR Doc. 01-10849 Filed 5-2-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-834-806]

#### **Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Kazakhstan**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of preliminary determination in the less than fair value investigation of certain hot-rolled carbon steel flat products from Kazakhstan.

**SUMMARY:** On December 12, 2000, the Department of Commerce published a notice of initiation of an antidumping duty investigation of certain hot-rolled carbon steel flat products from Kazakhstan. This investigation covers one producer of the subject